



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/842,801

04/27/2001

Laurent Baretzki

206483US2X

2836

22850

7590

07/11/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2142

NOTIFICATION DATE

DELIVERY MODE

07/11/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/842,801	<b>Applicant(s)</b> BARETZKI, LAURENT	
	<b>Examiner</b> DOUGLAS B. BLAIR	<b>Art Unit</b> 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-20,22-26,28-37,39,40 and 42-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-20,22-26,28-37,39,40 and 42-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The applicant has amended claims 17, 22, 24, 26, 28, 29, and 39, cancelled claims 21, 38, and 41 and added new claims 45 and 46. Claims 17-20, 22-26, 28-37, 40, and 42-46 are currently pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 17-20, 22-26, 28-37, 40, and 42-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-19, 22-26, 28-37, and 43-46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The system of claims 17-19, 22-26, 28-37, and 43-46 is only comprised of software elements. The applicant never explicitly claims any hardware elements as part of the system in the claims involved in this rejection. Because claims 17-19, 22-26, 28-37, and 43-46 are only directed towards software elements they are treated as software per se. Software per se does not fit into any of the statutory categories of invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-20, 24-26, 28-37, 39, 40, and 42-46 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,910,148 to Ho et al.

As to claims 17 and 39, Ho teaches a redundant routing system, comprising: a first routing unit configured to manage input and output data (active card in Fig. 4A); a second routing unit configured to manage input and output data (standby card in Fig. 4A); a network interface configured to connect said first and second routing units (ports in Fig. 8); a standby bus interface configured to connect said first and second routing units to each other (col. 15, lines 42-47), wherein, when said first routing unit is managing said input and output data, said second routing unit is configured to detect a failure of said first routing unit by monitoring both said network and standby bus interfaces using messages sent over both the network and the standby bus interfaces (col. 19, line 53-col. 20, line 20), when said second routing unit detects a failure of said first routing unit, said second routing unit is configured to deactivate said first routing unit so that said first routing unit no longer manages said input and output data and said second routing unit is further configured to start managing said input and output data (col. 19, line 53-col. 20, line 20), sets of parameters for interpreting the messages, including configuration parameters of an application configured to run on at least one of the first and second routing units, are configured to be stored in at least one configuration file included in both said first and

Art Unit: 2142

second routing units (col. 20, lines 40-65), and when said first routing unit detects a failure in itself, said first routing unit is configured to deactivate itself to cease managing said input and output data and to allow said second routing unit to start managing said input and output data (col. 8, lines 11-45).

As to the rest of the dependent claims, these limitations are taught by the embodiments cited to reject the independent claims. Should the applicant have any question about the interpretation of these claims, the applicant can contact the Examiner at the number listed at the conclusion of this office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,910,148 to Ho et al.

As to claims 22-23, Ho does not explicitly teach detecting a change in impedance in order to notice a failure.

Official Notice is taken that detecting a change in impedance was a well known method of detecting a failure at the time of the applicant's invention. It would have been obvious to one of ordinary skill in the networking art at the time of the invention to combine the teachings of Ho with the concept of checking impedance because checking impedance would be one specific

Art Unit: 2142

method of implementing the generic teachings of Ho which broadly talk about detecting hardware failures.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Examiner, Art Unit 2142

Application/Control Number: 09/842,801  
Art Unit: 2142

Page 6